THE HONORABLE BRIAN D. LYNCH 1 **CHAPTER 13 HEARING DATE: September 25, 2019** 2 **HEARING TIME: 1:30 P.M.** LOCATION: Tacoma, Washington 3 **RESPONSE DATE: September 18, 2019** 4 5 6 7 8 9 IN THE UNITED STATES BANKRUPTCY COURT FOR THE 10 WESTERN DISTRICT OF WASHINGTON AT TACOMA 11 12 In re: Case No.: 19-42368-BDL 13 KYMBERLY ANN GALLAGHER and **OBJECTION TO CONFIRMATION WITH** RAYMOND MADISON STRICT COMPLIANCE 14 GALLAGHER, 15 Debtors. 16 **COMES NOW**, Michael G. Malaier, Chapter 13 Standing Trustee, and objects to 17 confirmation as follows: 18 **BACKGROUND** 19 Debtors filed this Chapter 13 case on July 19, 2019. The applicable commitment period 20 is thirty six months. The case is currently in the second month and the Meeting of Creditors has 21 22 not yet been completed. The bar date for filing non-governmental claims is September 27, 2019. 23 Scheduled unsecured claims total \$6,254.67, and scheduled priority claims total \$11,500.00. The 24 plan as filed proposes 100% repayment to general unsecured filed and allowed claims. 25 Michael G. Malaier Chapter 13 Standing Trustee **OBJECTION TO CONFIRMATION** 

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2	<u>OBJECTION</u>
3	☐ Plan is not feasible:
4	□ Plan is not proposed in good faith or is forbidden by law: Debtors have not filed all required tax returns. Prior to confirmation a debtor must have "filed all applicable".
5	Federal, State, and local tax returns as required by section 1308." 11 U.S.C. §
6	1325(a)(9). Under section 1308(a), the debtor must file all applicable tax returns for the 4-year period ending on the date of the filing of the petition. Based on information and
7	belief, debtors have not filed the 2015 through 2018 tax returns. Confirmation should be denied until such time as the returns are filed.
8	☐ Plan fails to commit all excess disposable income for the applicable commitment period
9	as required by 11 U.S.C. § 1325(b)(1)(B):
10	☑ Plan does not meet the best interests of creditors test as required by 11 U.S.C. § 1325(a)(4): Based on information and belief, the liquidation value of the estate exceeds
11	the unsecured claims; therefore, the plan should pay interest on unsecured claims at the Federal Interest Judgment Rate. The plan currently proposes an interest rate of 0.03%.
12	☐ Schedules or other documentation insufficient:
14	○ Other: The plan should be amended to provide treatment for the HUD mortgage lien. Court's Claim #1-1.
15	WHEREFORE, Trustee requests that the objection to confirmation be sustained and
16	debtors be ordered to file a motion to confirm a plan resolving the issues raised herein within 14
17	days of entry of the Order Sustaining Trustee's Objection to Confirmation; and to set the
18	hearing on the next available motion calendar after the 14 days expires. If the Motion to
19	Confirm resolving the Trustee's issues is not filed and set for hearing as outlined above, the
20	Trustee requests he be allowed to enter an order dismissing the case, <i>ex parte</i> , without notice.
22	<b>DATED</b> this 9th day of September, 2019.
23	/s/ Matthew J.P. Johnson
24	Matthew J.P. Johnson, WSBA# 40476 for Michael G. Malaier, Chapter 13 Trustee
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Michael G. Malaier Chapter 13 Standing Trustee 2122 Commerce Street Tacoma, WA 98402 (253) 572-6600